

FILED
Clerk
District Court

DEC 21 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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19 *Development, Inc.*

20 **UNITED STATES DISTRICT COURT**
21 **FOR THE NORTHERN MARIANA ISLANDS**

22 **EQUAL EMPLOYMENT**
23 **OPPORTUNITY COMMISSION,**

24 **Plaintiff,**

25 **v.**

26 **MICRO PACIFIC DEVELOPMENT**
27 **INC. d/b/a SAIPAN GRAND HOTEL**
28 **and ASIA PACIFIC HOTELS INC. d/b/a**
SAIPAN GRAND HOTEL

Defendants.

CIVIL ACTION NO. 04-0028

~~PROPOSED~~ *ARM*
JOINT CONSENT DECREE

1 **I. INTRODUCTION**

2 On September 23, 2004, Plaintiff Equal Employment Opportunity Commission ("EEOC")
3 filed this action pursuant to Title VII of the Civil Rights Act of 1964 ("Title VII"), and Title I of the
4 Civil Rights Act of 1991. The EEOC alleged that Defendant Micro Pacific Development Inc.
5 ("MPD") discriminated against Charging Party Julieta Torres and other similarly situated female
6 employees. Specifically, the EEOC alleged that the women were subjected to a sexually hostile
7 work environment. MPD denied all claims and asserted various affirmative defenses. After the
8 initial filing of the instant suit, MPD sold its hotel property to Asia Pacific Hotels Inc. ("APHI") and
9 determined to close its business on Saipan and dissolve by the end of January, 2006. On September
10 12, 2004, the EEOC filed an Amended Complaint adding APHI as defendant under a theory of
11 successor liability. This case settled before APHI was served with the Amended Complaint but
12 APHI participated in the settlement of this action.
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17 **II. NON-ADMISSION OF LIABILITY**

18 This consent decree is not an adjudication or finding on the merits of this case and shall not
19 be construed as an admission of a violation of Title VII by any Defendant.
20

21 The Court has reviewed the terms of this Consent Decree in light of the pleadings, the record
22 herein, and the applicable law, and now approves the Consent Decree in its entirety.
23

24 Therefore, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:
25

26 **III. GENERAL PROVISIONS**

27 1. This Court has jurisdiction over the subject matter and the parties to this action.
28

1 2. This Consent Decree constitutes a full resolution of the EEOC's complaint in Civil Action
2 No. 04-0028.

3 3. This Consent Decree shall become effective upon its entry by the Court.

4 4. This Consent Decree is final and binding upon the Parties, their successors and assigns.

5 5. The EEOC and Defendants shall bear their own costs and attorney fees.

6 6. The EEOC, APhi and MPD have prepared a Joint Press Release concerning this Consent
7 Decree and the case (copy attached as Exhibit "A") and the distribution of that Joint Press Release
8 shall be the only public comment the Parties shall initiate specifically regarding this settlement. The
9 EEOC agrees to disseminate the press release. Any additional comment from the EEOC made in
10 response to inquiries from non-parties shall come from EEOC Officials Joan Ehrlich, William
11 Tamayo or Timothy Reira only. Non-parties who contact the EEOC regarding this matter shall be
12 provided the contact information for MPD's counsel. Nothing herein shall be interpreted to preclude
13 EEOC, APhi and MPD from complying with their own reporting requirements, training programs,
14 community outreach or pursuant to judicial process.
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20 **IV. GENERAL INJUNCTIVE RELIEF**

21 **1. Sexual Harassment**

22 Defendants MPD and its successors and assigns (including APhi), hereby agree not to
23 engage in or be a party to any action, policy or practice that is intended to or is known to them to
24 have the effect of sexually harassing or intimidating any employee on the basis of sex , or to create,
25 facilitate or permit the existence of discrimination on the basis of sex.
26
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1 **2. Retaliation**

2 Defendants MPD and its successors and assigns (including APhi), agree not to engage in,
3
4 implement or permit any action, policy or practice with the purpose of retaliating against any current
5 or former employee of any Defendant because he or she complained about sexual harassment, filed
6 a charge of discrimination alleging any such practice; testified or participated in any manner in any
7 investigation (including, without limitation, any internal investigation undertaken by any Defendant),
8 proceeding or hearing in connection with this case, and/or relating to any claim of sexual harassment
9 or retaliation, or; was identified as a possible witness in this action.
10

11
12 **V. SPECIFIC INJUNCTIVE RELIEF TO BE UNDERTAKEN BY DEFENDANT MPD**

13
14 MPD represents that the company will dissolve in approximately January of 2006. If the
15 company takes all steps necessary for it to dissolve, and ceases all business activities, and has no
16 employees by February 28, 2006, no further injunctive relief as set out below in this Section V. need
17 be taken. However, if the company does not in good faith make every effort to complete dissolution
18 by February 28, 2006, or at any time thereafter reestablishes its business, Defendant MPD shall take
19 the following measures to prevent sexual harassment at the company:
20

21 **1. Policy Changes**

22 No later than April 1, 2006, Defendant MPD will institute and implement for its employees
23 a written personnel policy with the following:
24

25 (i) a specific statement insuring an employee's right to complain regarding sexual harassment
26 and retaliation;

27 (ii) specific contact information for those employees designated to receive complaints;
28

1 (iii) a prompt timetable for commencing an investigation after a complaint is made, and for
2 responding to the request or complaint;

3 (iv) a provision which requires that promptly upon the conclusion of its investigation of a
4 complaint, Defendant will communicate to the employee the company's decision on the results of
5 the investigation and the remedial actions taken or proposed;

6 (v) the policy will be translated into the Chamorro, Japanese and Tagalog languages.

7
8 **2. Policy Dissemination:**

9 (i) No later than May 1, 2006, the policy written in the English language, as revised above,
10 will be hand -delivered to each and every employee of MPD. In addition, a copy of the foreign
11 language translations of the policy shall given to those workers with a proficiency in those
12 languages;
13

14 (ii) Each worker shall be asked to sign an acknowledgment that he or she has received and
15 read the policy. The same acknowledgment shall be required of all newly hired employees, including
16 all managers and supervisors, at the start of their employment.; and
17

18 (iii) the revised policy will be posted on all company bulletin boards for the duration of the
19 decree. Defendant MPD will monitor the notices and replace within ten (10) days any notice which
20 is defaced or removed.
21

22 **3. Supervisor Accountability Policy:**

23 (i) Defendant MPD agrees that it shall impose substantial discipline – up to and including
24 termination, suspension without pay or demotion – upon any supervisor or other manager, who
25 engage in sexual harassment or retaliation or, who permit any such conduct to occur in his or her
26 work area or among his subordinates;
27
28

1 (ii) Supervisors and managers also shall be accountable for promptly considering and
2 responding to and referring complaints of sexual harassment and/or retaliation to the individuals
3 charged with handling such complaints;

4 (iii) Defendant MPD agrees that it will advise all current and new managers and supervisors
5 of their duties under these revised policies;

6 (iv) Defendant MPD agrees that it will revise its supervisor appraisal process, as necessary,
7 to ensure that appropriate communication of anti-discrimination policies and appropriate handling
8 of sexual harassment complaints are included as an element of the appraisals.

9 (v) Defendant MPD shall will never employ Akira Ishikawa as an employee, independent
10 contractor, or in any other capacity. *ARM of page 10 line 10 & 11.*

11 **4. Complaint and Investigation Procedure**

12 Defendant MPD shall revise its complaint procedure, as necessary, in order to ensure that it
13 is designed to encourage employees to come forward with complaints of sexual harassment and/or
14 retaliation.

15 As part of the policy, Defendant MPD shall provide its employees with convenient,
16 confidential and reliable mechanisms for reporting incidents of sexual harassment and retaliation.
17 Defendant MPD shall designate at least one employee for every fifty employees as a contact person
18 with responsibility for responding to and/or turning complaints over to those employees or third
19 parties designated as complaint investigators. To the extent possible, Defendant MPD will try to
20 insure that at least one of the contact persons is female. The names of the contact persons, their work
21 locations and telephone numbers shall be listed on the policy, and also shall be routinely and
22 continuously posted on company bulletin boards.

1 The complaint procedure shall provide that: (a) complaints of discrimination or harassment
2 and/or retaliation will be accepted by the company both in writing and orally; (b) the company will
3 provide a timetable for commencing an investigation after a complaint is made or received, and for
4 remedial action to be taken upon conclusion of an investigation; and (c) promptly upon the
5 conclusion of the investigation of a complaint, the hotel will communicate to the employee the
6 results of the investigation, including what remedial actions have been taken, or are planned.
7

8 **5. Training Program**

9
10 No later than June 1, 2006, Defendant MPD will present to all of its current and new
11 employees, including managerial/supervisory employees, at least two hours of mandatory equal
12 employment opportunity training, once every year for the duration of this Consent Decree. The
13 training shall include the use of translators for those employees with a limited knowledge of English.
14 The cost of the training shall be borne by MPD.
15

16 The training described in the preceding paragraph shall be in-person training, accompanied
17 by materials prepared by experienced educators and/or investigators, and shall educate the employees
18 about the problems of discrimination in the workplace. The purpose of the training will be to give
19 participants a thorough understanding of discrimination and harassment issues, including but not
20 limited to theories of liability under Title VII, sources of legal protection for victims of
21 discrimination and harassment, and the employer's obligation to take preventive, investigative, and
22 remedial action with respect to discrimination and harassment complaints, and to review company
23 policies (including discipline policies) and practices related to discrimination, harassment and
24 retaliation. The training will further inform each participant that he or she is responsible for knowing
25 and complying with the contents of MPD's equal employment opportunity policy.
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Managers and Supervisors tasked with receiving employee discrimination complaints shall receive an additional four hours of training once every year for the duration of this Consent Decree on the employer's responsibility to provide a workplace free of sexual harassment and retaliation, appropriate techniques for investigating discrimination and harassment, and remedying it.

Defendant MPD shall provide to the EEOC twenty-one (21) days in advance of the each training a copy of the course syllabus for the training.

All persons attending each mandatory equal employment opportunity training shall sign an acknowledgment of his or her attendance at the training, the date thereof, and his or her position with the company. All participants shall also be given a questionnaire through which they will be asked to critique the training and to provide suggestions to improve future training sessions. Defendant MPD will provide a copy of these attendance records, the completed post-training questionnaires, and the training materials to the EEOC within thirty (30) days of completion of the trainings.

VII. SPECIFIC INJUNCTIVE RELIEF TO BE UNDERTAKEN BY DEFENDANT APhi

1. Policy Changes

Within thirty (30) days after entry of this Consent Decree, Defendant APhi will revise its Personnel Policies at Saipan Grand Hotel as follows:

(i) the policy will include a specific statement insuring an employee's right to complain regarding sexual harassment and retaliation;

(ii) the policy will provide specific contact information for those employees designated to receive complaints;

(iii) the policy will provide a prompt timetable for commencing an investigation after a

1 complaint is made, and for responding to the request or complaint;

2 (iv) the policy will require that promptly upon the conclusion of its investigation of a
3 complaint, Defendant will communicate to the employee the company's decision on the results of
4 the investigation and the remedial actions taken or proposed;

5 (v) the policy will be translated into the Chamorro, Japanese and Tagalog languages.

6
7 **2. Policy Dissemination:**

8 (i) beginning within 60 days of the entry of this decree, the policy written in the English
9 language, as revised above, will be hand -delivered to each and every worker at Saipan Grand Hotel.
10 In addition, a copy of the foreign language translations of the policy shall given to those workers
11 with a proficiency in those languages;

12 (ii) Each worker shall be asked to sign an acknowledgment that he or she has received and
13 read the policy. The same acknowledgment shall be required of all newly hired employees, including
14 all managers and supervisors, at the start of their employment.; and

15 (iii) the revised policy will be posted on all company bulletin boards for the duration of the
16 decree. Defendant APHI will monitor the notices and replace within ten (10) days any notice which
17 is defaced or removed.

18
19 **3. Supervisor Accountability Policy:**

20 (i) Defendant APHI agrees that it shall impose substantial discipline – up to and including
21 termination, suspension without pay or demotion – upon any supervisor or other manager, who
22 engages in sexual harassment or retaliation or who permits any such conduct to occur in his or her
23 work area or among Saipan Grand Hotel workers;

24 (ii) Supervisors and managers also shall be accountable for promptly considering and
25

1 responding to and referring complaints of sexual harassment and/or retaliation to the individuals
2 charged with handling such complaints;

3 (iii) Defendant APhi agrees that it will advise all current and new managers and supervisors
4 of their duties under these revised policies;

5 (iv) Defendant APhi agrees that it will revise its supervisor appraisal process, as necessary,
6 to ensure that appropriate communication of anti-discrimination policies and appropriate handling
7 of sexual harassment complaints are included as an element of the appraisals.
8

9 (v) Neither Defendant MPD nor Defendant APhi shall ever employ Akira Ishikawa as an
10 employee, independent contractor, or in any other capacity.
11

12 **4. Complaint and Investigation Procedure**

13 Defendant APhi shall revise its complaint procedure, as necessary, in order to ensure that
14 it is designed to encourage employees to come forward with complaints of sexual harassment and/or
15 retaliation.
16

17 As part of the policy, Defendant APhi shall provide Saipan Grand Hotel workers with
18 convenient, confidential and reliable mechanisms for reporting incidents of sexual harassment and
19 retaliation. Defendant APhi shall designate at least three employees as contact persons with
20 responsibility for responding to and/or turning complaints over to those employees or third parties
21 designated as complaint investigators. At least one of the contact persons will be female. The names
22 of the contact persons, their work locations and telephone numbers shall be listed on the policy, and
23 also shall be routinely and continuously posted in a prominent place at the Saipan Grand Hotel.
24

25 The complaint procedure shall provide that: (a) complaints of discrimination or harassment
26 and/or retaliation will be accepted by Saipan Grand Hotel both in writing and orally; (b) the hotel
27
28

1 will provide a timetable for commencing an investigation after a complaint is made or received, and
2 for remedial action to be taken upon conclusion of an investigation; and (c) promptly upon the
3 conclusion of the investigation of a complaint, the hotel will communicate to the employee the
4 results of the investigation, including what remedial actions have been taken, or are planned.
5

6 **5. Training Program**

7 Defendant APHI will present to all of its current and new employees at the Saipan Grand
8 Hotel, including managerial/supervisory employees, at least two hours of mandatory equal
9 employment opportunity training, once every year for the duration of this Consent Decree. The first
10 training shall be held within a reasonable period mutually agreed upon by the parties, but no later
11 than ninety (90) days after the entry of this Consent Decree. The training shall include the use of
12 translators for those employees with a limited knowledge of English. The cost of the training shall
13 be borne by Defendant APHI.
14
15

16 The training described in the preceding paragraph shall be in-person training, accompanied
17 by materials prepared by experienced educators and/or investigators, and shall educate the employees
18 about the problems of discrimination in the workplace. The purpose of the training will be to give
19 participants a thorough understanding of discrimination and harassment issues, including but not
20 limited to theories of liability under Title VII, sources of legal protection for victims of
21 discrimination and harassment, and the employer's obligation to take preventive, investigative, and
22 remedial action with respect to discrimination and harassment complaints, and to review company
23 policies (including discipline policies) and practices related to discrimination, harassment and
24 retaliation. The training will further inform each participant that he or she is responsible for knowing
25 and complying with the contents of Saipan Grand Hotel's equal employment opportunity policy.
26
27
28

1 Managers and Supervisors tasked with receiving employee discrimination complaints shall
 2 receive an additional four hours of training once every year for the duration of this Consent Decree
 3 on the employer's responsibility to provide a workplace free of sexual harassment and retaliation,
 4 appropriate techniques for investigating discrimination and harassment, and remedying it.
 5

6 Defendant APhi shall provide to the EEOC twenty-one (21) days in advance of each training
 7 a copy of the course syllabus for the training.
 8

9 All persons attending each mandatory equal employment opportunity training shall sign an
 10 acknowledgment of his or her attendance at the training, the date thereof, and his or her position with
 11 the company. All participants shall also be given a questionnaire through which they will be asked
 12 to critique the training and to provide suggestions to improve future training sessions. Defendant
 13 APhi will provide a copy of these attendance records, the completed post-training questionnaires,
 14 and the training materials to the EEOC within thirty (30) days of completion of the trainings.
 15
 16

17 **VIII. MONETARY RELIEF**

18 1. Defendant MPD will pay monetary damages in the amount of One Hundred Seventy Five
 19 Thousand Dollars (\$175,000.00) in full settlement of the discrimination claims made in this lawsuit
 20 or that could have been brought by the Plaintiff in this lawsuit, both known at the time of entering
 21 into this Consent Decree, and unknown. These funds shall be paid by cashiers check made payable
 22 to the following individual in the indicated amount: Julieta Torres - One Hundred Thousand Dollars
 23 (\$100,000.00); Aurora Salac - Thirty Thousand Dollars (\$30,000.00); Arcely Sison - Thirty
 24 Thousand Dollars (\$30,000.00); and, Remiang Sebuu - Fifteen Thousand Dollars (\$15,000.00).
 25
 26 Defendants shall hand-deliver the cashiers checks, no later than forty-five (45) days after the entry
 27
 28

1 of this Consent Decree, to James Benedetto, Federal Ombudsman, Federal Ombudsman's Office,
2 U.S. Dept. of the Interior, Office of Insular Affairs, Suite 203, Marina Heights II, Saipan, MP, 96950.

3 Mr. Benedetto will insure the delivery of the checks to the claimants on behalf of the EEOC.
4

5 2. The amounts above shall be characterized as compensatory damages and are being paid
6 in complete compromise of all disputed issues arising out of the Complaint filed in this lawsuit, Civil
7 Action No. C-04-0028 EEOC v. Micro Pacific Development Inc./Asia Pacific Hotels Inc. d/b/a
8 Saipan Grand Hotel in the United States District Court for the Northern Mariana Islands or that relate
9 to alleged violations of Title VII by MPD as of the date of entering into this Consent Decree.
10
11

12 **IX. RETENTION OF JURISDICTION AND EXPIRATION OF CONSENT DECREE**
13

14 1. After signing of this Consent Decree, this lawsuit will be dismissed. If the EEOC
15 determines that MPD or APhi has not complied with the Consent Decree, the EEOC will provide
16 written notification of the alleged breach to the party alleged to be in breach, and will not petition
17 the Court for enforcement sooner than thirty (30) days after providing said written notification. The
18 thirty-day period following written notice shall be used by the parties for good faith efforts to resolve
19 the issue. If the EEOC petitions the Court and the Court finds that APhi or MPD are in substantial
20 violation of the terms of the Decree, the Court may enforce this Consent Decree and/or provide other
21 appropriate relief.
22

23 2. The prevailing party in connection with any civil action to enforce compliance with the
24 terms and conditions of this Consent Decree shall be entitled to its reasonable costs and attorneys'
25 fees.
26

27 3. The Court shall retain enforcement jurisdiction over this matter for a period of three years
28

1 from the date of execution by the parties for the purpose of enforcing the provisions of this Consent
2 Decree, pursuant to paragraph 1 above.

3
4 4. If any provisions of this Consent Decree is found to be unenforceable by a court of
5 competent jurisdiction, only the specific provision in question shall be affected and the other
6 enforceable provisions shall remain in full force and effect.

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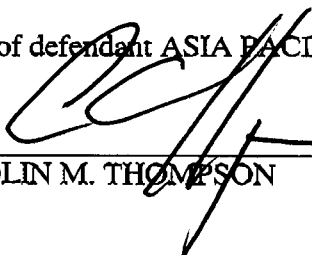
On behalf of defendant MICRO PACIFIC DEVELOPMENT INC.:

Dated: December 22, 2005


MICHAEL W. DOTTS

On behalf of defendant ASIA PACIFIC HOTELS INC.:

Dated: December 22, 2005


COLIN M. THOMPSON

On behalf of Plaintiff EEOC:

JAMES LEE
Deputy General Counsel
EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

Dated: December 20, 2005


WILLIAM R. TAMAYO
Regional Attorney

Dated: December 20, 2005


DAVID OFFEN-BROWN
Supervisory Trial Attorney

IT IS SO ORDERED:

DATED: 12-23-2005


ALEX R. MUNSON
UNITED STATES DISTRICT COURT JUDGE

[PROPOSED] CONSENT DECREE
C-04-0028

RECEIVED

DEC 22 2005

Clerk
District Court
For The Northern District of California

PRESS RELEASE

**EEOC and Micro-Pacific Settle Sexual Harassment Suit
\$175,000 for CNMI Hotel Workers**

Contact Information:

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M(808) 371-4251**

Michael Dotts, Attorney for Micro Pacific Dev. Inc. W(670) 234-5684

Colin Thompson, Attorney for Asia Pacific Hotels W(670) 233-0777

SAIPAN, Commonwealth of the Northern Mariana Islands – The U.S. Employment Opportunity Commission (EEOC) announced a \$175,000 settlement resolving sexual harassment lawsuit alleging that four female kitchen employees were sexually harassed at the Saipan Grand Hotel from approximately 1998 to 2002, while the hotel was owned by Micro Pacific Development, Inc. In 2005, Asia Pacific Hotels, Inc. acquired the hotel and although named in the lawsuit as a successor, was considered faultless in the matter.

Under the terms of the Consent Decree signed by Judge Alex R. Munson, Micro Pacific, as the company which owned the hotel during the alleged discrimination, will pay Julieta Torres and three other women a total of \$175,000, but denies all liability in the case. As the current hotel owner, Asia Pacific has agreed to institute training and policies to protect Saipan Grand workers from future discrimination for the next three years.

Mrs. Torres, who filed the initial charge with EEOC, was pleased to have the matter resolved: “I hope this case will encourage employees who are too scared to speak out about discrimination to contact the EEOC. The EEOC listened to us and took action.”

Likewise, Micro Pacific expressed pleasure with the resolution of the matter. “The company is pleased to put this matter behind it,” said Micro Pacific’s attorney, Michael Dotts, on behalf of Micro Pacific.

EEOC San Francisco District Director H. Joan Ehrlich stated: “We commend the MPDI and APhi for their cooperation in resolving this case. By avoiding the time, expense and disruption of protracted litigation, resolution is always in the interest of all parties involved.”

The EEOC’s lawsuit asserted that an assistant chef in one of the hotel’s restaurants sexually harassed Mrs. Torres and other female staff, including physical, verbal and visual harassment. These allegations were all denied and the settlement avoids a determination of what actually happened.

EEOC Honolulu Local Director Tim Riera said, “Sexual harassment is a continuing problem. Our agency continues to receive many sexual harassment charges involving allegations like this one, that are particularly egregious. Employers should send a clear message to the workplace that sexual harassment will not be tolerated.”

According to the EEOC, although Mrs. Torres notified company managers, Micro Pacific failed to take appropriate corrective action in response to her complaints. Even after

the harasser admitted he sexually harassed Mrs. Torres, the company waited for more than six months to terminate him while she was forced to transfer out of her position to avoid him. The EEOC believes they would have shown at trial that Micro Pacific managers received no sexual harassment training and that the company's anti-discrimination policies were inadequate.

In response, Micro Pacific stated that Mrs. Torres did not make the same complaint to the company that she did to the EEOC, three months after the incident occurred. In response to what Mrs. Torres did tell the company, the assistant chef was suspended without pay and later, when Mrs. Torres disclosed the full extent of what she claimed had happened, the employment of the assistant chef was discontinued. Micro Pacific believes that had the matter gone to trial, the jury would have found that its training of its managers was adequate, as was the company's written anti-discrimination policy contained in its personnel handbook.

EEOC Regional Attorney William Tamayo said, "Employers have a legal obligation to immediately address complaints and to take appropriate corrective action. In particular, companies should insure that complaints are dealt with by trained personnel. Asia Pacific's willingness to take preventative measures against discrimination is commendable, and we hope that other employers will follow suit."

On behalf of Asia Pacific Hotel's, Inc. Colin Thompson stated that the company believes in training its supervisors to recognize and prevent sexual harassment. "We want our employees to truly enjoy working for us. Our management works very hard with that goal in mind."

In addition to Title VII, EEOC enforces the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1967 and the Equal Pay Act. As part of the San Francisco District, EEOC's Honolulu Local Office is responsible for investigating discrimination complaints against employers located in the Commonwealth of Northern Mariana Islands, Guam, American Samoa, Wake Island and Hawaii. For more information about the Commission, please visit www.eeoc.gov. Counsel for Micro Pacific is available at www.pacific-lawyers.com.

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